



A. Violation Information

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Enforcement Order is issued by:

Monterey
 Conservation Commission (Issuing Authority)

2/23/09
 Date

To:

Applicant
 Name of Violator

Address

1. Location of Violation:

Property Owner (if different)

26 Eaton Rd

Street Address

Monterey

City/Town

107

Assessors Map/Plat Number

01245

Zip Code

035

Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Property Ower, Architect, Engineer, Construction Manager, and all and any contractors and sub-contractors hired in service of the project by the Property Owner and their agents clear-cut steep slopes protected under the Scenic Mountain Act as well as clear-cut in Resources and the Buffer Zone protected under the Wetlands Protection Act. The applicant also failed to conduct the required and necessary pre-construction meetings with Contractor or Construction Manager, sub-contractors and a member of the Monterey Conservation Commission. The applicant also failed to file both the Orders of Conditions in the Souther Berkshire Registry of Deeds as required to maintain a valid Order of Conditions.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:



the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).

B. Findings (cont.)

the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Applicant _____ Dated _____
 Name

File Number _____ Condition number(s) _____

The Order of Conditions expired on (date): _____
 Date

The activity violates provisions of the Certificate of Compliance.

The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

Other (specify):

1. The Property Owner and his appointed agents have exceeded the activities permitted in the issued OOC. 2. The illegal activities conducted will cause immediate and direct harm and alteration to Resource areas and will change the sedimentation and oxygen content of L Garfield. 3. The illegal activities conducted will destabilize the areas resulting in erosion of lake shore. 4. This identical swath of land had been illegally clear cut some 15 - 20 years ago and has just now reached a condition of stabilizing the hillside, of providing vegetative canopy and shade, and of beginning to protect surface flows of water.

C. Order

The issuing authority hereby orders the following (check all that apply):

The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

A restoration plan shall be filed with the issuing authority on or before 13 April 2009
 Date

for the following:

1. Stabilizing all disturbed areas in the 'sapling forest'. 2. Use of trees larger than 5" DBH and a minimum 20' height, whichever is larger. 3. Use of like species in replanting.



WPA Form 9 – Enforcement Order

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.

C. Order (cont.)

Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

Date

for the following:

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

- 1. We require the clear-cut areas to be mapped by a licensed surveyor on the existing Proposed Cutting Plan originally submitted by the applicant in a clear graphic manner.
2. Please identify date, time, and participants of job meeting with a Monterey Conservation Commission project manager regarding the two orders of conditions.
3. We require the OOC's to be filed in the Registry.
4. We require attendance of the Property Owners representatives who obtained the original OOC's at the next regularly scheduled Commission meeting.

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

David Dempsey

Name

413-528-6996

Phone Number

Monday - Friday 8-5

Hours/Days Available

Issued by:

Monterey

Conservation Commission



Conservation Commission signatures required on following page.

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

_____	_____
_____	_____
_____	_____
_____	_____

Signature of delivery person or certified mail number